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10/669,171	09/23/2003	Brian Gonsalves	1033-SS00419	1698

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/669,171
Filing Date: September 23, 2003
Appellant(s): GONSALVES ET AL.

Jeffrey G. Toler
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/23/06 appealing from the Office action mailed 12/13/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

20030028890

Swart et al

2-2003

(9) Grounds of Rejection

Claims 16-24 are rejected as being unpatentable over Swart et al as set forth in the final Office action. Copy of the Office action is provided below. The claims have been re-arranged to be consistent with the recent cancellation of claims 1-15. No new ground of rejection was introduced.

1. Claims 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swart et al.

- As for claims 16, 24: Swart et al (herein Swart) teach a computer implemented method and corresponding apparatus of network services comprising a video content source operable to output an information stream in response to a delivery request (0043-0047) and further operable to discontinue output of the information stream in response to a cease request (0071), the video content source having a unique address (inherently include in the teaching of web site and online databases), an engine for maintaining a list of available content sources comprising video content sources (0045, 0048), an access engine operable to receive user input from a user device (0048), the user input includes the search results mapable to the unique address and indicating a desire for the video stream (0045, 0046), and service engine coupled to the access engine and operable to initiate establishment of at least a portion of a point-to-point microwave communication link between the user device and the video source (0101), the network service engine further operable to initiate sending of the delivery request (0043-0047) and to track a metric associated with user access to the information system (0056). Although Swart clearly teach point-to-point microwave communication link between the user device and the video source (101, 107), and that the user device and the video source can be connected through Wide Area

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Network/Internet and can be supported by any protocol (0065, 0092, 0096, 0107, 0112). Since point-to-point protocol communication link, which was developed by the Internet Engineering Task and has become the de facto Wide Area network link protocol, implementation of the point-to-point protocol communication link between the user device and the video source is inherently included in Swart. Even if it is not, implementation of point-to-point protocol communication link is well known in the art of information processing (see US 2005/0157711, par 0007, 0035; US 2005/0180429, par 0204). It would have been obvious to one of skill in the art, at the time the invention was made, to combine the well known implementation of point-to-point protocol communication link to Swart's teaching of communication protocol. Motivation of the combining is for the obvious advantage of being well recognized protocol and as suggested by Swart as set forth above (i.e., the system may support any protocol). The metric is selected from a group consisting of information throughput and connection duration (0020, 0056, 0059, 0109). The system further comprises a billing engine to generate an invoice based on the metric (0059, 0072).

- As for claim 17: Swart fails to clearly teach notifying the consumer the cost of service and receiving payment prior to service. However official notice is taken that implementation of notifying the consumer the cost of service and receiving payment prior to service would have been an obvious method of doing business.
- As for claim 18: A telephone interface associated with the access engine (0048). Swart fails to clearly teach the voice interface. However Official notice is taken that implementation of phone voice interface is well known and would have been obvious

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to one of skill in the art for communication with the service provider as a supplement input interface.

- As for claim 19: The system further includes a list of video content sources each having a unique address (0044, 0045, 0048). The service engine operable to facilitate point-to-point protocol over Ethernet communication link (0076, 0101). Notifying the consumer the cost of service and receiving payment prior to service would have been an obvious method of doing business.
- As for claim 20: The metric includes information throughput and connection duration (0020, 0056, 0059, 0109). Tracking quality of service and peak bandwidth would have been obvious method of doing business in video transmission.
- As for claim 21: Implementation of converting variable bit rate to constant bit rate stream would have been obvious for better video quality and bandwidth control.
- As for claim 22: It is implicitly included that the video content source toggle from not output to output state responsive to an accepted video transfer request.
- As for claim 23: At least a portion of the request comprises a format selected from the group consisting of a dual tone multi-frequency signal, a TCP/IP packet, and a voice signal (0045, 0064, 0074, 100).

(10) Response to Argument

The Swart et al. reference: Swart et al teach a network service method and corresponding means for requesting connection to a video content source operable to output an information stream. The request for connection is made by user selection from a list of contents (par 0066, lines 6-13). This is similar to the appellant's description in par. 0049 of the

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specification. Note that each item in the list of content is associated with an address of the content file. More importantly, the user may make a request for connection by directly specifying a network address in a query (par 0073, line 16-17, wherein the user requests for connection by specifying a service provider). Responsive to the request for connection, the system determines the address of the video content source (0066: "data indicating the source of the content", "appropriate remote source"). Note also that each of the source contents is point to an address in a source database), establishes communication link with the user, and delivers the content to the user (0081, 0085; figure 9A-C). The system tracking a metric associated with communication of the information stream (0020, 0021, 0086, 0088, 0116) and generate a billing record based on the metric (0020, 0021, 0086, 0088, 0116). The metric includes viewing statistics such as number of time viewed, date/time viewed, usage rights and fees (0045), and bandwidth available (0088). Request for connection can be made via voice input which will be converted by a speech recognition (0064, 0073, 0074). Swart discloses that the system downloads content by forming a direct link 205 between the video content source and the user terminal (0047, 0066), or through a point-to-point microwave network which appears read on the claimed limitation "point-to-point protocol communication link" ("point-to-point protocol" is commonly defined as a data link protocol for dial up telephone connections such as between a computer and the Internet). Even if it is not, it would have been obvious to one of skill in the art to implement the point-to-point protocol communication link to Swart. Motivation of the combining is for the well known advantage that PPP provides better protection for data integrity and security.

The arguments: As for claims 16, 22 and 23, the appellants argue that Swart does not disclose receiving a request for connection to a video content source. In response to the

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argument, the request for connection is made by user selection from a list of contents (par 0066, lines 6-13). This is similar to the appellant's description in par. 0049 of the specification. Note that each item in the list of content is associated with an address of the content file. More importantly, the user may made a request for connection by directly specify a network address in a query (par 0073, line 16-17, wherein the user requests for connection by specifying a service provider). Thus Swart reads on the claimed limitation as recited. The appellants further argue that Swart does not teach tracking a metric associated with communication of the information stream. In response to the argument, Swart discloses tracking a metric associated with communication of the information stream (0020, 0021, 0086, 0088, 0116) and generate a billing record based on the metric (0020, 0021, 0086, 0088, 0116). The metric includes viewing statistics such as number of time viewed, date/time viewed, usage rights and fees (0045), and bandwidth available (0088). Viewing statistic such as number of time viewed, date/time viewed, and bandwidth available are metrics associated with communication of the information stream. The appellants further argue that Swart does not teach generating a billing record partially based upon the metric. In response to the argument, Swart clearly teaches generating a billing record based upon the metric, i.e., based upon viewing statistic such as number of time viewed, date/time viewed, and bandwidth available (0020, 0021, 0086, 0088, 0116).

As for claim 17, the appellants repeat the argument that Swart does not teach the initiating and managing ("managing" is not a claim language) point-to-point protocol connection. The argument has been addressed as set forth above. The appellants further argue that Swart does not teach notifying the user the cost associated with the accessing the video content. The argument is irrelevant since the rejection is based on an Official notice taken that notifying the

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user the cost associated with accessing the video content source and accepting payment input from the user prior to forming the link would have been obvious method of doing business. It would have been obvious to combine the method to Swart for the profit guaranty.

As for claim 18, the appellants argue that Swart does not teach a spoken directive from a calling party and converting the spoken directive into the request for connection. The limitation is disclosed by Swart argument is irrelevant since the rejection is based on a Official notice taken that implementation of voice input interface is well known in the art. Further study of Swart also shows that request for connection can be made via voice input which will be converted by a speech recognition (0064, 0073, 0074).

As for claim 19, the appellants argue that Swart does not teach maintaining a list of available content sources, the list including the video content source and a unique address for the video content source. The list is disclosed by Swart in par 0045 (list of suggest content), par 0064 a list of content available based on a search result, and par 0066 a list of book available. Each item in the list has an associated address for downloading. The appellants also repeat the argument that Swart does not teach notifying the user the cost associated with the accessing the video content. The argument is irrelevant since the rejection is based on an Official notice taken that notifying the user the cost associated with accessing the video content source and accepting payment input from the user prior to forming the link would have been obvious method of doing business. It would have been obvious to combine the method to Swart for the profit guaranty.

As for claim 20, in response to the argument that Swart does not disclose the tracking of information throughput, quality of service, and peak bandwidth. Tracking of information

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throughput is disclosed in par 0081 and 0085. Tracking of quality of service is disclosed in par 0088, and tracking peak bandwidth is disclosed in par. 0080, 0088, and 0115.

As for claim 21, as set forth in the rejection, combining converting from variable bit rate to constant bit rate stream to Swart would have been obvious to one of skill in the art for better video quality and bandwidth control. The argument is irrelevant since the appellant is attacking Swart alone while the rejection is based on an obviousness reasoning in light of Swart.

As for claim 24, the appellants reiterate all previous arguments regarding the request for connection, the cost notification and pre-payment, tracking metric associated with communication of the information stream. It is believed that all arguments have been addressed as set forth above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

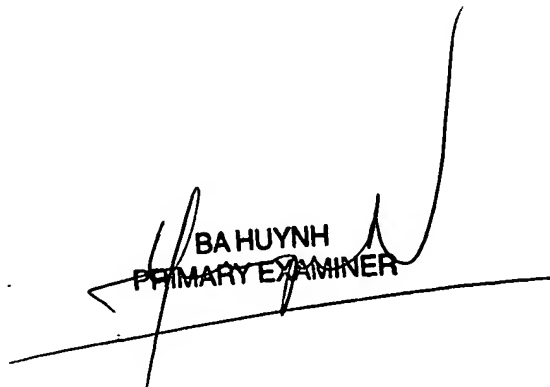
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Ba Huynh

Primary Examiner

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